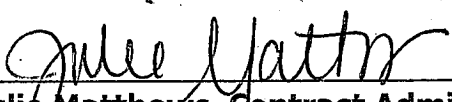




Department of General Services
Procurement Division
707 Third Street, 2nd Floor
West Sacramento, CA 95605-2811

State of California
CONTRACT NOTIFICATION
****MANDATORY****

CONTRACT NUMBER:	1-08-58-31
DESCRIPTION:	GPS Receivers
CONTRACTOR(S):	FEI-Zyfer, Inc.
CONTRACT TERM:	09/19/2008 through 09/18/2011
DISTRIBUTION LIST:	Posted Electronically on www.pd.dgs.ca.gov/contracts/58-31.htm
STATE CONTRACT ADMINISTRATOR:	Julie Matthews (916) 375-5918 julie.matthews@dgs.ca.gov


Julie Matthews, Contract Administrator

Date: 9/19/08

Contract (Mandatory) 1-08-58-31
Contract Notification and User Instructions

1. SCOPE

The State's contract with FEI-Zyfer, Inc. (contractor) provides GPS Receivers at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-08-58-31. The contractor shall supply the entire portfolio of products as identified in the contract and will be the primary point of contact for data collection, reporting, and distribution of products to the State.

The contract term is for three (3) years with an option to extend the contract for two (2) additional one (1) year periods or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the contractor and the State. If a mutual agreement cannot be met the contract may be terminated at the end of the current contract term and/or contract extension(s).

2. CONTRACT USAGE/RULES

A. State Departments

- 1) The use of this contract is mandatory for all State of California Departments.
- 2) Ordering State departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contract Manual Volume 2 and 3, as applicable.
- 3) Prior to placing orders against this contract, State departments must have been granted purchasing authority by the Department of General Services, Procurement Division (DGS/PD) for the use of the State's statewide contracts. The department's current purchasing authority number must be entered in the appropriate location on each purchase document. Departments that have not been granted purchasing authority by DGS/PD for the use of the State's statewide contracts may access the Purchasing Authority Application at <http://www.pd.dgs.ca.gov/deleg/pamanual.htm> or may contact DGS/PD's Purchasing Authority Management Section by e-mail at pams@dgs.ca.gov.

B. Local Governmental Agencies

- 1) Local governmental agency use of this contract is optional.
- 2) Local government agencies are defined as "any city, county, city and county, district or other governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges", empowered to expend public funds for the acquisition of products, per Public Contract Code Chapter 2, Paragraph 10298 (a) (b). While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations.
- 3) Local governmental agencies shall have the same rights and privileges as the State under the terms of this contract. Any agencies desiring to participate shall be required to adhere to the same responsibilities as do State agencies and have no authority to amend, modify or change any condition of the contract.

Contract (Mandatory) 1-08-58-31
Contract Notification and User Instructions

- C. All ordering agencies (State and local) are required to have a Department of General Services (DGS) agency billing code prior to using this contract. DGS agency billing codes may be obtained by emailing the DGS billing code contact with the following:

- State Department
- Contact name
- Telephone number
- Mailing address
- Facsimile number and e-mail address

DGS Billing Code Contacts:

- 1) Marilyn.ebert@dgs.ca.gov and
- 2) Wilson.lee@dgs.ca.gov

3. DGS ADMINISTRATIVE FEES

The DGS will bill each ordering department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

For current fees, click on "DGS Price Book" at: <http://www.ofs.dgs.ca.gov/Price+Book/P/Purchasing.htm>.

4. CONTRACT ADMINISTRATION

Both the State and the contractor(s) have assigned contract administrators as the single points of contact for problem resolution and related contract issues.

State Contract Administrator: Julie Matthews
Address: DGS/Procurement Division
707 Third Street, 2nd Floor
West Sacramento, CA 95605
Telephone: (916) 375-5918
Facsimile: (916) 375-4613
E-Mail: julie.matthews@dgs.ca.gov

Contractor: FEI-Zyfer, Inc.
Contract Administrator: Roger Schoef
Address: 7321 Lincoln Way
Garden Grove, CA 92841-1428
Telephone: (714) 933-4023
Facsimile: (714) 933-4001
E-Mail: rds@fei-zyfer.com

5. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE

Ordering departments and/or contractors shall inform the State Contract Administrator of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc.

Contract (Mandatory) 1-08-58-31
Contract Notification and User Instructions

For contractor performance issues, ordering departments must submit a completed Supplier Performance Report via email or facsimile to the State Contract Administrator identified in Article 4. The ordering department should include all relevant information and/or documentation (i.e. Purchase documents).

6. CONTRACT PRICING

All contract line item information is listed on Attachment A, Contract Pricing.

7. SPECIFICATIONS

All products must conform to the attached documents as follows:

- Technical Equipment Specification Number FR-0XX-017 Rev. A, dated August 2008
- Public Safety Radio Goods Special Provisions TD-947, dated 04/07
- Service Manual Requirements TD-927, dated 03/04
- Technical Training Requirements, dated 03/08

8. PURCHASE EXECUTION

- A. State departments must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the Office of State Publishing web site: <http://www.dgs.ca.gov/osp> (select Standard Forms).

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name
- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line Item number
- Quantity
- Unit of Measure
- Commodity Code Number
- Product Description
- Unit Price
- Extension Price

- B. Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number is used by State departments only). The contractor will not accept purchase documents from local agencies without a State issued billing code.

- C. All ordering departments will submit a copy of executed purchase documents to:

DGS - Procurement Division (IMS# Z-1)
Attn: Data Entry Unit
707 Third Street, 2nd Floor North
West Sacramento, CA 95605-2811

Contract (Mandatory) 1-08-58-31
Contract Notification and User Instructions

9. PURCHASE ORDER APPROVAL

The purchase of all radio and related electronic equipment requires the Department of General Services, Telecommunications Division (DGS-TD) technical review and approval per State Administrative Manual, Chapter 4530. All radio transmitting devices available on this contract must be authorized by the Federal Communication Commission (FCC) before being put into service. DGS-TD performs all processes required to obtain the licenses for all radio equipment owned or operated by the State.

Service manuals are required when DGS-TD will maintain the equipment. State agencies should contact DGS-TD before the purchase order (Std. 65, Purchasing Authority Purchase Order) is issued so the required number of service manuals can be included.

State agency purchase orders for radio and related electronic equipment must have a DGS-TD stamp and signature affixed.

Contractors are required to reject all State purchase orders for radio and related electronic equipment if not stamped and signed by DGS-TD, or risk termination of their contract(s).

10. ORDERING PROCEDURE

Ordering departments are to submit appropriate purchase documents directly to the contractor(s) via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

The ordering information for the contractor is listed below:

Company Name: FEI-Zyfer, Inc.
Address: 7321 Lincoln Way
Garden Grove, Ca 92841-1428
Facsimile: (714) 933-4001
Email: sales@fei-zyfer.com

When using any of the ordering methods, all State departments must conform to proper State procedures.

The contractor shall not accept orders from ordering agencies without a State-issued billing code or from State departments without DGS-TD approval.

11. MINIMUM ORDER

There is no minimum order for this contract.

Contract (Mandatory) 1-08-58-31
Contract Notification and User Instructions

12. ORDER ACKNOWLEDGEMENT

The contractor will provide the ordering agencies with an order receipt acknowledgement containing a unique order number either via e-mail or facsimile within 48 hours of receipt of order.

The acknowledgement will include:

- Ordering Agency Name
- Unique order number for user reference
- Agency Order Number (Purchase Order Number)
- Purchase Order Total Cost
- Delivery Completion Date

13. DELIVERY SCHEDULES

Delivery is to be completed in full within 90 calendar days after receipt of order (ARO). Delivery shall be made to any State department or local agency within California and will be specified on individual purchase documents.

Contractor is requested to make deliveries in Los Angeles County, Orange County, San Bernardino Metropolitan Area, and San Diego Metropolitan Area during off-peak hours. Off-peak hours are Monday through Friday, 10:00 AM to 4:00 PM.

Note: In accordance with paragraph 15 of the General Provisions entitled "Delivery", the contractor shall strictly adhere to the delivery terms and completion schedule as specified in this bid. Failure to comply with the delivery requirements, as stated, may be considered a breach of contract and subject the contractor to General Provisions 26, entitled "Rights and Remedies of the State for Default".

14. EMERGENCY/EXPEDITED ORDERS

Not applicable.

15. FREE ON BOARD (F.O.B.) DESTINATION

All prices are F.O.B. destination; freight prepaid by the contractor, to the ordering organization's receiving point. Responsibility and liability for loss or damage for all orders will remain with the contractor until final inspection and acceptance, when all responsibility will pass to the ordering organization, except the responsibility for latent defects, fraud, and the warranty obligations.

16. SHIPPED ORDERS

- A. All shipments must comply with General Provisions, Paragraph 12 entitled "Packing and Shipment". The General Provisions are available at: <http://www.documents.dgs.ca.gov/pd/modellang/GPIT0407.pdf>.
- B. All pallets employed in the delivery of goods must comply with the attached State of California Wooden Pallet Specification 3990-01A-01, dated January 2001. All pallets shall be of sturdy construction and adequate condition to assure delivery of the goods without damage to the goods or safety hazards. Exchange pallets may be available; however, the State assumes no responsibility for the availability to exchange pallets. Delivery drivers shall not remove more pallets from the agency than delivering at time of delivery.

Contract (Mandatory) 1-08-58-31
Contract Notification and User Instructions

17. INVOICING

Ordering agencies may require separate invoicing, as specified by each ordering organization. Invoices will contain the following information:

- Contractor's name, address and telephone number
- Leveraged Procurement Number (Contract Number)
- Agency Order Number (Purchase Order Number)
- Item and commodity code number
- Quantity purchased
- Contract price and extension
- State sales and/or use tax
- Prompt payment discounts/cash discounts, if applicable
- Totals for each order

18. PAYMENT

Payment terms for this contract are net forty-five (45) days. Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty-five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

19. PAYEE DATA RECORD

Each State accounting office must have a copy of the Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment may be unnecessarily delayed. Ordering departments should contact the contractor for copies of the Payee Data Record.

20. CALIFORNIA SELLER'S PERMIT

The California seller permit number for the contractor(s) is listed below. Ordering departments can verify that permits are currently valid at the following website: www.boe.ca.gov. State departments must adhere to the file documentation required identified in the State Contract Manual Volume 2 and Volume 3, as applicable.

Contractor Name	Seller Permit #
FEI-Zyfer, Inc.	100-242963

21. RECYCLED CONTENT

There is no recycled content for this contract.

22. SMALL BUSINESS/DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION

There is no small business (SB) or disabled veteran business enterprise (DVBE) participation for this contract.

Contract (Mandatory) 1-08-58-31
Contract Notification and User Instructions

23. ATTACHMENTS

The attachments included as part of the user instructions are as follows:

- Attachment A – Contract Pricing
- Technical Equipment Specification Number XX-017, dated August 2008
- General Provisions, dated 4/12/07
- Public Safety Radio Goods Special Provisions TD-947, dated 04/07
- Service Manual Requirements TD-927 dated 03/04
- Technical Training Requirements, dated 03/08
- State of California Wooden Pallet Specification 3990-01A-01, dated 01/2001

Attachment A
CONTRACT PRICING

ITEM NO.	UNIT	COMMODITY CODE	DESCRIPTION	UNIT PRICE
1	EA	5895-999-9999-8	COMMUNICATION EQUIPMENT (AS DESCRIBED) GPS Receiver in accordance with State Specification XX-017 Rev A dated August 2008. Brand: <u>FEI-Zyfer, Inc.</u> Model: <u>AccuSync Lite®</u>	\$ <u>1,708.00</u> /EA
2	EA	5820-000-0032-3	MANUAL SERVICE (FOR USE WITH COMMUNICATION GROUP) Service Manual (hard copy) in accordance with Service Manual Requirements, TD-927.	\$ <u>0.00</u> /EA
3	EA	5820-000-0032-3	MANUAL SERVICE (FOR USE WITH COMMUNICATION GROUP) Service Manual (electronic copy) in accordance with Service Manual Requirements, TD-927.	\$ <u>0.00</u> /EA
4	EA	5820-000-0042-6	TRAINING TECHNICAL (FOR USE WITH COMMUNICATION GROUP) Operation and Maintenance Training in accordance with "Technical Training Requirements".	\$ <u>2,635.00</u> /EA
5	EA	9838-000-0008-3	WARRANTY EQUIPMENT (AS DESCRIBED) 42 month Extended Warranty (In addition to 18 month warranty specified in TD-947 paragraph 4.c))	\$ <u>87.00</u> /EA

Technical Equipment Specification

Equipment Type: GPS Receiver with a High Stability
Oscillator

Specification Number: XX-017 Rev. A

Issue Date: August 2008

Number of Pages: 5

The bidder shall submit information about the equipment being supplied below and on the subsequent pages.

Company Name: FEI-Zyfer, Inc.

Equipment Brand: FEI-Zyfer, Inc.

Equipment Model: AccuSync Lite®

1 General

- 1.1 This technical equipment specification describes a GPS receiver with a high stability oscillator (GPS receiver).
- 1.2 The station shall be used by the State of California (State) in a California Highway Patrol (CHP) VHF low band simulcast radio system.
- 1.3 The GPS receiver shall recover GPS timing signals and shall provide multiple 10 MHz output reference frequencies. These 10 MHz output reference frequencies shall be introduced into low band simulcast base stations to stabilize the final carrier frequency.
- 1.4 The GPS receiver shall be supplied with a GPS antenna, a lightning surge suppressor and coaxial cable.

2 Performance Requirements

The GPS receiver shall meet or exceed the following performance standards.		Meets Requirement		Provide supporting data about the equipment.
		Yes	No	
2.1	GPS receiver	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Detail data provided in Technical Overview section.
2.2	Internal oscillator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.3	10 MHz output signal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.3.1	Signal waveform	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.3.2	Signal level	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.3.3	Number of outputs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Qty 5
2.3.4	Connector type	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BNC Receptacle (F)BNC Receptacle (F)
2.3.5	Accuracy Error	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.3.6	Harmonics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.3.7	Conducted Spurious Emissions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.3.8	Short term accuracy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

The GPS receiver shall meet or exceed the following performance standards		Meets Requirement		Provide supporting data about the equipment
		Yes	No	
2.3.9	Low phase noise levels	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Lower than or equal to -75 dBc/Hz at 1 Hz offset, -115 dBc/Hz at 10 Hz offset and -135 dBc/Hz at 100 Hz offset.			
2.4	Operating temperature	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	-30° to +60° C			
2.5	All 10 MHz sine wave output reference frequencies shall be stabilized with GPS timing signals.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

3 Physical Requirements

The GPS receiver shall meet or exceed the following physical requirements:		Meets Requirement		Provide supporting data about the equipment
		Yes	No	
3.1	Mounting requirement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px;"> -19 inch Rack Mounting conforming to ANSI/EIA Standard RS-310-D-1992 -Width: •17" (432 mm), without L/R rack mounting flanges -Depth (Est.): •8" (203 mm) -Height: •1U nominal, 1.72" (43.7 mm) -Weight (Est.): •8.0 lbs. (3.6 kg), maximum estimated weight </div>
3.1.1	Rack requirement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	The GPS receiver shall be equipped for mounting in a rack. 19-inch wide rack Conforms to ANSI/EIA Standard RS-310-D-1992			
3.2	Primary DC power On/Off switch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3.3	Visual indicators	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3.3.1	Primary power on	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3.3.2	GPS signal locked	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

4 Electrical Requirements

The GPS receiver shall meet or exceed the following electrical requirements:		Meets Requirement		Provide supporting data about the equipment:	
		Yes	No		
4.1	Input power source	<input checked="" type="checkbox"/>	<input type="checkbox"/>	+13.6 VDC, $\pm 20\%$. (To connect to a State +12 V battery bank)	
4.2	Current surge protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fuses or other current limiting devices shall be contained internally.	
4.3	Alarm output	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dry contact closure output (closes when an alarm condition is active)	

5 Additional Equipment

Supply the following equipment with the GPS receiver:		Meets Requirement		Provide supporting data about the equipment:	
		Yes	No		
5.1	GPS antenna	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wi-Sys Model WS3978-DH. See datasheet attached.	
5.2	Lightning surge suppressor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Citel Model P8AX09-TW-FF. See datasheet attached.	
5.3	Coaxial cable	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Type RG-8, RG-58, RG-59, RG-213 or equivalent 100 feet minimum	
5.3.1	Length	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
5.3.2	Connectorized to connect to the antenna and GPS receiver/surge suppressor.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RG59, Terminated w/ TNC Plug (M) connectors 100' long	

6 Accessory Equipment

Supply the following accessory equipment in the quantities specified on the equipment order.		Meets Requirement		Provide supporting data about the equipment.
		Yes	No	
6.1	Service Manual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6.1.1	Provide a printed copy of the manual.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6.1.2	Contents of manual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Complies with Form TD-927, Service Manual Requirements.

7 Standards

The GPS receiver shall comply with the following documents and standards.		Meets Requirement		Provide supporting data about the equipment.
		Yes	No	
7.1	Form TD-947	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Public Safety Radio Goods, Special Provisions
7.2	Form TD-927	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Service Manual Requirements

GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
 - a) **"Business entity"** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - b) **"Buyer"** means the State's authorized contracting official.
 - c) **"Contract"** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
 - d) **"Contractor"** means the Business Entity with whom the State enters into this contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
 - e) **"Goods"** (commodities) means all types of tangible personal property, including but not limited to materials, supplies, and equipment (including computer equipment and telecommunications).
 - f) **"State"** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
2. **CONTRACT FORMATION:**
 - a) If this contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then contractor's bid is a firm offer to the State which is accepted by the issuance of this contract and no further action is required by either party.
 - b) If this contract results from a solicitation other than described in paragraph a), above, contractor's quotation or proposal is deemed a firm offer and this contract document is the State's acceptance of that offer.
 - c) If this contract resulted from a joint bid, it shall be deemed one indivisible contract. Each such joint contractor will be jointly and severally liable for the performance of the entire contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint contractors.
3. **COMPLETE INTEGRATION:** This contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the contract.
4. **SEVERABILITY:** The contractor and the State agree that if any provision of this contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of contractor, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
 - a) Contractor warrants and certifies that in the performance of this contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage or liability by reason of contractor's violation of this provision.
 - b) If this contract is in excess of \$500,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
8. **CONTRACTOR'S POWER AND AUTHORITY:** The contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this contract.
 - a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
9. **ASSIGNMENT:** This contract shall not be assignable by the contractor in whole or in part without the written consent of the State. For the purpose of this paragraph, State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.
10. **WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.
11. **ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:
 - a) these General Provisions – Non-IT Commodities;
 - b) contract form, i.e., Purchase Order STD 65, etc., and any amendments thereto;
 - c) statement of work, including any specifications incorporated by reference herein;
 - d) special terms and conditions; and
 - e) all other attachments incorporated in the contract by reference.
12. **PACKING AND SHIPMENT:**
 - a) All goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:

GENERAL PROVISIONS

- i) show the number of the container and the total number of containers in the shipment; and
 - ii) the number of the container in which the packing sheet has been enclosed.
 - b) All shipments by contractor or its subcontractors must include packing sheets identifying: the State's contract number; item number; quantity and unit of measure; part number and description of the goods shipped; and appropriate evidence of inspection, if required. Goods for different contracts shall be listed on separate packing sheets.
 - c) Shipments must be made as specified in this contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.
- 13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the contract.
- a) Contractor must strictly follow contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the buyer.
 - b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
 - c) On "F.O.B. Shipping Point" transactions, should any shipments under the contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of the State, shall at contractor's own expense assist the State in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
- 14. TIME IS OF THE ESSENCE:** Time is of the essence in this contract.
- 15. DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in this contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess goods, and may return them to contractor at contractor's expense or utilize any other rights available to the State at law or in equity.
- 16. SUBSTITUTIONS:** Substitution of goods may not be tendered without advance written consent of the buyer. Contractor shall not use any specification in lieu of those contained in the contract without written consent of the buyer.
- 17. INSPECTION, ACCEPTANCE AND REJECTION:**
- a) Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering goods and services under this contract and will tender to the State only those goods that have been inspected and found to conform to this contract's requirements. Contractor will keep records evidencing inspections and their result, and will make these records available to the State during contract performance and for three years after final payment. Contractor shall permit the State to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the contract.
 - b) All goods may be subject to inspection and test by the State or its authorized representatives.
 - c) Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
 - d) All goods to be delivered hereunder may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
 - e) The State shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If the State does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.
- 18. SAMPLES:**
- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the contract.
 - b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at contractor's expense.
- 19. WARRANTY:** Unless otherwise specified, the warranties contained in this contract begin after acceptance has occurred.
- a) Contractor warrants that goods and services furnished hereunder will conform to the requirements of this contract (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by the State, free from defects in design. The State's approval of designs or specifications furnished by contractor shall not relieve the contractor of its obligations under this warranty.
 - b) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies and users of the goods or services.
- 20. SAFETY AND ACCIDENT PREVENTION:** In performing work under this contract on State premises, contractor shall conform to any specific safety requirements contained in the contract or as required by law or regulation. Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this contract in accordance with the default provisions hereof.
- 21. INSURANCE:** When performing work on property in the care, custody or control of the State, contractor shall maintain all

GENERAL PROVISIONS

commercial general liability insurance, workers' compensation insurance and any other insurance the State deems appropriate under the contract. Contractor shall furnish an insurance certificate evidencing required insurance coverage acceptable to the State. Upon request by the buyer, the contractor may be required to have the State shown as an "additional insured" on selected policies.

22. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this contract extends into fiscal years subsequent to that in which it is approved, such continuation of the contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, contractor agrees to take back any affected goods furnished under this contract, terminate any services supplied to the State under this contract, and relieve the State of any further obligation therefor.
- b) STATE AGREES THAT IF PARAGRAPH (a) ABOVE IS INVOKED, GOODS SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

23. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director, Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the contractor a Notice of Termination specifying the extent of termination and the effective date thereof. The parties agree that, as to the terminated portion of the contract, the contract shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the contract shall not be void.
- b) After receipt of a Notice of Termination, and except as directed by the State, the contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i) Stop work as specified in the Notice of Termination.
 - ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
 - iii) Terminate all subcontracts to the extent they relate to the work terminated.
 - iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification of which will be final for purposes of this clause.

24. TERMINATION FOR DEFAULT:

- a) The State may, subject to the Force Majeure paragraph contained herein, by written notice of default to the contractor, terminate this contract in whole or in part if the contractor fails to:
 - i) Deliver the goods or to perform the services within the time specified in the contract or any amendment thereto;
 - ii) Make progress, so as to endanger performance of this contract (but see subparagraph (b) below); or
 - iii) Perform any of the other provisions of this contract (but see subparagraph (b), below).

- b) The State's right to terminate this contract under subparagraphs (a)(ii) and (a)(iii) above, may be exercised if the contractor does not cure such failure within the time frame stated in the cure notice issued by the buyer.
- c) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the buyer considers appropriate, goods or services similar to those terminated, and the contractor will be liable to the State for any excess costs for those goods or services. However, the contractor shall continue the work not terminated.
- d) If the contract is terminated for default, the State may require the contractor to transfer title and deliver to the State, as directed by the buyer, any:
 - i) Completed goods, and
 - ii) Partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the buyer, the contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay contract price for completed goods delivered and accepted. The contractor and buyer shall agree on the amount of payment for manufacturing materials delivered and accepted for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the buyer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- f) If, after termination, it is determined that the contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

25. FORCE MAJEURE:

Except for defaults of subcontractors at any tier, the contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or state government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the contractor and subcontractor, and without the fault or negligence of either, the contractor shall not be liable for any excess costs for failure to perform.

26. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event any goods furnished or services provided by the contractor in the performance of the contract should fail to conform to the requirements herein, or to the sample submitted by the contractor, the State may reject the same, and it shall become the duty of the contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the contract.
- b) In addition to any other rights and remedies the State may have, the State may require contractor, at contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the contractor.

GENERAL PROVISIONS

- c) In the event of the termination of the contract, either in whole or in part, by reason of default or breach by the contractor, any loss or damage sustained by the State in procuring any items which the contractor agreed to supply shall be borne and paid for by the contractor.
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to contractor or to make a claim against the contractor therefore.
- 27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**
- a) The contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at the contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the contractor.
- b) Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by the contractor during the contract.
- 28. INDEMNIFICATION:** Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm, or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by contractor in the performance of this contract.
- 29. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
- 30. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
- 31. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or goods supplied to the State pursuant to this contract.
- 32. NEWLY MANUFACTURED GOODS:** All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.
- 33. CONTRACT MODIFICATION:** No amendment or variation of the terms of this contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.
- 34. CONFIDENTIALITY OF DATA:** All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the contractor in order to carry out this contract, or which become available to the contractor in carrying out this contract, shall be protected by the contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the contractor. If the methods and procedures employed by the contractor for the protection of the contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the contractor's possession, is independently developed by the contractor outside the scope of this contract, or is rightfully obtained from third parties.
- 35. NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this contract shall not be made without prior written approval of the Department of General Services.
- 36. PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**
- a) Contractor shall hold the State of California, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article, or appliance furnished or used in connection with the contract.
- b) Contractor may be required to furnish a bond to the State against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- c) Contractor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the goods or software supplied by the contractor or the operation of such goods pursuant to a current version of contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. The contractor shall pay those costs and damages finally awarded against the State in any such action. Such defense and payment shall be conditioned on the following:
- i) That the contractor shall be notified within a reasonable time in writing by the State of any notice of such claim; and,
 - ii) That the contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the State shall have the option to participate in such action at its own expense.
- d) Should the goods or software, or the operation thereof, become, or in the contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, the State shall permit the contractor at its option and expense either to procure for the State the right to continue using the goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by the State shall be prevented by injunction, the contractor agrees to take back such goods or software and make every reasonable effort to assist the State in procuring substitute goods or software. If, in the sole opinion of the State, the

GENERAL PROVISIONS

return of such infringing goods or software makes the retention of other goods or software acquired from the contractor under this contract impractical, the State shall then have the option of terminating such contracts, or applicable portions thereof, without penalty or termination charge. The contractor agrees to take back such goods or software and refund any sums the State has paid contractor less any reasonable amount for use or damage.

- e) The contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
 - i) The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by the contractor; or,
 - ii) The operation of equipment furnished by the contractor under the control of any operating software other than, or in addition to, the current version of contractor-supplied operating software; or
 - iii) The modification by the State of the equipment furnished hereunder or of the software; or
 - iv) The combination or utilization of software furnished hereunder with non-contractor supplied software.
- f) Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g) The foregoing states the entire liability of the contractor to the State with respect to infringement of patents, copyrights or trade secrets.

37. EXAMINATION AND AUDIT: Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting documentation pertaining to performance of this contract. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this contract.

38. DISPUTES:-

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, contractor shall submit to the Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this contract, unless the State, on its own initiative, has already rendered such a final decision. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the contract, contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the contract adjustment for which contractor believes the State is liable. If the contractor is not satisfied with the decision of the Department Director or designee, the contractor may appeal the decision to the Department of General Services, Deputy Director, Procurement Division. In the event that this contract is for information technology goods and/or services, the decision may be appealed to an Executive Committee of State and contractor personnel.
- b) Pending the final resolution of any dispute arising under, related to or involving this contract, contractor agrees to diligently proceed with the performance of this contract, including the delivery of goods or providing of services in

accordance with the State's instructions. Contractor's failure to diligently proceed in accordance with the State's instructions shall be considered a material breach of this contract.

- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Department Director or designee or Deputy Director, Procurement Division if an appeal was made. If the State fails to render a final decision within 90 days after receipt of contractor's demand, it shall be deemed a final decision adverse to contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

39. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the contractor, require the contractor to stop all, or any part, of the work called for by this contract for a period up to 90 days after the Stop Work Order is delivered to the contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 90 days after a Stop Work Order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i) Cancel the Stop Work Order; or
 - ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the contract shall be modified, in writing, accordingly, if:
 - i) The Stop Work Order results in an increase in the time required for, or in the contractor's cost properly allocable to the performance of any part of this contract; and
 - ii) The contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the contractor for loss of profits because of a Stop Work Order issued under this clause.

40. PRIORITY HIRING CONSIDERATIONS: If this contract includes services in excess of \$200,000, the contractor shall give priority consideration in filling vacancies in positions funded by the contract to qualified recipients of aid under Welfare and Institutions, Code Section 11200 in accordance with PCC Section 10353.

GENERAL PROVISIONS

- 41. COVENANT AGAINST GRATUITIES:** The contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the contractor, or any agent or representative of the contractor, to any officer or employee of the State with a view toward securing the contract or securing favorable treatment with respect to any determinations concerning the performance of the contract. For breach or violation of this warranty, the State shall have the right to terminate the contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which contractor agreed to supply shall be borne and paid for by the contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.
- 42. NONDISCRIMINATION CLAUSE:**
- a) During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
 - b) The contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.
- 43. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with; PCC Section 10296.
- 44. ASSIGNMENT OF ANTITRUST ACTIONS:** Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:
- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, material, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
 - b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
 - c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
 - i) the assignee has not been injured thereby, or
 - ii) the assignee declines to file a court action for the cause of action.
- 45. DRUG-FREE WORKPLACE CERTIFICATION:** The contractor certifies under penalty of perjury under the laws of the State of California that the contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
 - b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i) the dangers of drug abuse in the workplace;
 - ii) the person's or organization's policy of maintaining a drug-free workplace;
 - iii) any available counseling, rehabilitation and employee assistance programs; and,
 - iv) penalties that may be imposed upon employees for drug abuse violations.
 - c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting contract:
 - i) will receive a copy of the company's drug-free policy statement; and,
 - ii) will agree to abide by the terms of the company's statement as a condition of employment on the contract.
- 46. FOUR-DIGIT DATE COMPLIANCE:** Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.
- 47. SWEATFREE CODE OF CONDUCT:**
- a) Contractor declares under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the State pursuant to the contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
 - b) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or

GENERAL PROVISIONS

premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).

48. RECYCLING: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205).

49. CHILD SUPPORT COMPLIANCE ACT: For any contract in excess of \$100,000, the contractor acknowledges in accordance with PCC Section 7110, that:

- a) The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

50. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12401 et seq).

51. ELECTRONIC WASTE RECYCLING ACT OF 2003: The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

52. USE TAX COLLECTION: In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

53. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Section 10286 and 10286.1, and is eligible to contract with the State.

54. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that the contractor is in compliance with Public Contract Code section 10295.3.

**PUBLIC SAFETY RADIO GOODS
SPECIAL PROVISIONS**

TD-947 (Rev. 04/07)

1. TECHNICAL STANDARDS

- a) Where applicable, all goods delivered shall meet or exceed the requirements contained in the Code of Federal Regulations, Title 47 Telecommunication, Chapter I Federal Communications Commission Rules and Regulations, in particular:
 - i) Part 2, Subpart I, "Marketing of Radio Frequency Devices" (47CFR2.803). All goods offered shall be authorized by the FCC by the bid due date.
 - ii) Part 15, Radio Frequency Devices (47CFR15).
 - iii) Part 90, Private Land Mobile Radio Service (47CFR90).
 - iv) Part 101, Fixed Microwave Services (47CFR101).
- b) Where applicable, all goods operating in the analog mode shall meet or exceed all applicable performance standards listed in TIA/EIA-603-C, "Land Mobile FM and PM Communications Equipment Measurement and Performance Standards", unless otherwise stated in the specification.
 - i) The State may consider goods operating within 30-50 MHz that are tested under comparable performance standards listed in TIA-603 and possibly EIA-152-C, "Minimum Standards for Land Mobile Communication FM or PM Transmitters, 25-866 MHz" and EIA/TIA-204-D, "Minimum Standards for Land Mobile Communication FM or PM Receivers, 25-866 MHz (which were superseded by TIA/EIA-603).
 - ii) Specification compliance testing conducted by the State, however, will be conducted in accordance with the methods, procedures, and requirements of TIA/EIA-603-C, unless otherwise stated in the specification. All measurements of transmitter radio frequency specifications shall be made at the transmitter chassis antenna connector. All measurements of receiver radio frequency specifications shall be made at the receiver chassis antenna connector. Measurements of received audio response and distortion shall be made at the speaker output.
 - iii) The performance requirements contained within the technical specifications further define and, in some cases, exceed the requirements contained in TIA/EIA-603-C. In the event of a conflict between performance requirements contained in TIA/EIA-603-C and the performance requirements contained in the specification, the requirements contained in the specification shall prevail.
- c) Where applicable, all goods operating in the digital mode shall meet or exceed all applicable APCO Project 25 system standards listed in the TIA/EIA 102 series of standards, interim standards and technical bulletins.

- d) Where applicable, all goods operating within 806-809 / 821-824 MHz and 851-854 / 866-869 MHz shall comply with the recommendations set forth in the National Public Safety Planning Advisory Committee 800 MHz NPSPAC Channel Regional Communications Plan for Regions 5 and 6 approved by the Federal Communications Commission (FCC) in 47CFR90.621(g).

2. SPECIAL ORDERING PROVISIONS

During the thirty-calendar day period immediately following purchase order issuance, the State reserves the right to increase the quantity ordered by up to twenty-five percent, or as otherwise specified, at rates not to exceed those contained herein.

3. SPECIFICATION COMPLIANCE TESTING

- a) Goods may be inspected before acceptance for workmanship, appearance, and conformance to all other requirements of the specifications. The State may reject any shipment or item of a shipment that is not in compliance with specification requirements or is otherwise defective in any manner.
- b) Within fifteen calendar days after contractor first receives notice of rejection, contractor shall, if requested by the State, remove rejected goods from the State's facilities. Upon failure of contractor to remove such goods from the State's facilities within the specified period, the State may forward such goods to contractor by common carrier, at contractor's expense and risk.
- c) Unless otherwise specified at time of rejection, and at no cost to the State, all rejected goods shall be repaired or replaced by contractor and shall be returned to the State within thirty calendar days from the date the goods are made available on, or removed from, the State's facilities, whichever occurs first.
- d) Unless otherwise specified at time of rejection, if contractor does not deliver goods meeting specifications within sixty calendar days from the date the goods are made available on, or removed from, State's facilities, whichever occurs first, contractor shall be deemed to be in default, and the State will terminate the purchase order in whole or in part in accordance with the Termination for Default provision contained in the General Provisions.
- e) At the State's option, contractor may be permitted to make repairs of rejected goods at the State's facilities.

4. MINIMUM GUARANTEES AND WARRANTIES

- a) Contractor is responsible for all guarantees and warranties required herein. Any guarantee/warranty offered by the original goods manufacturer shall not relieve contractor of this responsibility.

- b) If contractor is other than the manufacturer of goods delivered, contractor warrants that the manufacturer has authorized contractor to sell goods delivered. At the request of the State, written verification by manufacturer of such authorization shall be immediately provided.
- c) All goods delivered shall be guaranteed by contractor against defects for eighteen months from date of acceptance.
- d) During the guarantee period, contractor shall repair or replace, at its option and expense, all defective goods, or refund the purchase price thereof.
- e) Unless otherwise specified at time of requested repair, if contractor has not completed guarantee repair within thirty calendar days after notification of a malfunction, the State may effect such repairs and bill contractor for material cost and labor cost at the State technician current hourly rate.
- f) Workmanship and materials provided by contractor in the performance of any installation work required shall be guaranteed for ninety calendar days after installation. Workmanship or materials which are found to be defective during this period shall be promptly corrected at contractor's expense.
- g) During the Warranty Period, Contractor shall manage the individual warranties and maintenance services (if any) of the third-party Goods. If the third-party Goods do not function as warranted during the Warranty Period, Contractor will correct the deficiency.

5. DESIGN DEFECT

- a) A design defect shall be defined as identical failures occurring within five years after delivery in at least five units or five percent, whichever is larger, of identical assemblies, subassemblies, or parts supplied.
- b) Delivered goods shall be guaranteed by contractor against design defects for five years from date of acceptance. Upon written notification to and confirmation by contractor of design defects evidenced within the five-year guarantee period, contractor shall take prompt corrective action, at no cost to the State.
- c) Whenever it is necessary for contractor to take corrective action of design defects, contractor shall take the same corrective action in all identical goods supplied.
- d) All parts and materials used in corrective action for design defects shall be guaranteed by contractor against defects for one year from date of such corrective action.

6. SERVICE PROVISIONS

- a) Contractor shall provide the following services that will repair or exchange, in the times indicated, all defective goods returned by the State for repair.
 - i) Emergency no-charge warranty service within five calendar days, excluding shipping time, for defective goods returned within the guarantee period.

- ii) Non-emergency no-charge warranty service within twenty calendar days, excluding shipping time, for defective goods returned within the guarantee period.
- iii) Emergency full-charge nonwarranty service within five calendar days, excluding shipping time, for defective goods returned after expiration of the guarantee period.

7. AVAILABILITY OF REPAIR PARTS

- a) Contractor shall notify State of the date of last manufacture for all goods delivered.
- b) For a period of seven years from the notice of last manufacture, contractor shall make available to the State exact replacement parts for use in the delivered goods.
- c) If exact replacement parts are not available, contractor may substitute equal or similar parts which do not deteriorate performance and which will continue to meet all specifications in effect at the time of purchase.

8. SOFTWARE USAGE/LICENSE REQUIREMENT

- a) The Department of General Services, Telecommunications Division, and/or the purchasing agency shall be permitted to make unlimited copies of any software required for installation and maintenance of goods supplied. Such copies shall be for the sole and exclusive use of the State designated maintenance and engineering personnel in the installation, maintenance, and operation of the delivered goods.
- b) Any need for a separate software license agreement to reflect the scope and/or limitations of this usage shall be negotiated to the mutual agreement of the parties, including Department of General Services, Procurement Division and Telecommunications Division.

Service Manual Requirements

TD-927 (Rev. 03/04)

1. Each service manual shall be current and shall include any revised and/or supplemental documentation if not published in the main service manual.
2. Each service manual shall contain a general information section as follows:
 - 2.1. A list of applicable subassemblies that comprise the specified equipment
 - 2.2. Overall description of the equipment design features, performance, and applications
 - 2.3. Equipment specifications summary
 - 2.4. Equipment installation instructions, if applicable.
3. Each manual shall contain a theory of equipment operation section which shall include the following items:
 - 3.1. Theory of operation of the standard equipment, with unique or unusual circuitry described in detail.
 - 3.2. Theory of operation reflecting any modifications to the standard equipment.
4. Each manual shall contain an equipment maintenance section which shall include the items as follows:
 - 4.1. Recommended test equipment and fixtures, or minimum operational and performance requirements for appropriate test equipment.
 - 4.2. Alignment and troubleshooting information and charts.
 - 4.3. Removal and installation procedures for replacing assemblies and subassemblies, if not obvious or if improper sequencing of steps may result in component damage.
5. Each manual shall contain an equipment replacement parts section which shall include a component parts list including electrical parts, mechanical parts, and assemblies. All semiconductors shall be identified by the supplier's numbers and, as applicable, by JEDEC numbers.
6. Each manual shall contain an equipment diagram section which shall include the following items:
 - 6.1. Schematic diagram(s) identifying all circuit components and showing normal test voltages and levels.
 - 6.2. An overall functional block diagram.
 - 6.3. Detailed interconnecting diagram(s) showing wiring between modules, circuit boards, and major components.
 - 6.4. Pictorial circuit board layout diagrams(s) showing both component placement and printed wiring detail.
 - 6.5. Diagram(s) showing location of circuit boards and other subassemblies.
 - 6.6. Exploded view diagram(s) of complex mechanical assemblies.
7. Each manual shall conform to the following physical requirements:
 - 7.1. All pages, including latest revisions, shall be securely fastened together between protective covers (loose-leaf ring binding is acceptable).
 - 7.2. No page shall be subject to fading from exposure to any normal source of ambient lighting (OZALID reproduced pages are not acceptable).
 - 7.3. On orders of twenty or more manuals, the cover or first page shall be printed to show equipment model number, State purchase order number and its date, and name of State agency for which the equipment is specified.
 - 7.4. On orders including less than twenty manuals, the cover or first page shall be marked in any manner to show the State purchase order number and date.

1 Objective

Given a classroom condition with the specified equipment and materials the State technical staff shall learn the information necessary to earn the manufacturer certification for maintenance and repair.

2 Quantity

The State may specify on the equipment order that the supplier conduct one or more training courses.

3 Schedule

The training course shall be conducted within 90 days after equipment acceptance or at a later specified date agreed upon by the State.

4 Number of Trainees

The training course shall be designed for a group of 10 State telecommunications engineers and/or maintenance technicians per class.

5 Length of Training Course

The length of the course shall be sufficient to provide for the training objective and, unless otherwise specified, shall be a minimum of 2 days. The training shall not exceed 8 hours on any one day and the days shall be consecutive.

6 Syllabus

The training course shall be a manufacturer certified course for the equipment specified. The training course shall include but not be limited to the following topics:

- Installation and initial check-out procedures.
- Theory of operation.
- Programming software procedures.
- Routine maintenance practices and procedures.
- Trouble-shooting techniques and procedures.

A copy of the lesson plan to be used for this class by the instructor shall be forwarded to DGS Telecommunications one week before the instruction is to begin.

7 Instructor Qualifications

The training course shall be conducted by a manufacturer trained and certified instructor. The State prefers the training be provided by a certified instructor employed by the manufacturer. If the manufacturer does not directly employ the instructor, the supplier of the equipment shall provide, upon request, to the State, proof of certification that the instructor is manufacturer trained on the specified equipment and will present the same course as if given by the manufacturer.

8 Sameness of Courses

If more than one training course is specified. All training courses ordered shall be identical.

9 Location of Courses

The training course(s) may be held at State facilities in Sacramento or, if agreed to by the State, at a supplier-provided site within the State of California. To use the State facilities in Sacramento, the supplier should contact:

George Rivera
State of California, Department of General Services
Telecommunications Division
601 Sequoia Pacific Blvd.
Sacramento, California 95814-0282
916-657-9748

10 Course Material

The supplier shall supply each trainee with the following material that is specific to the equipment ordered:

- A copy of the Operation and Maintenance manual in accordance with TD-927 Service Manual Requirements
- Documentation covering all modifications made to the equipment in compliance with the State specification.
- Programming Software
- Programming instruction manual
- A copy of the Manufacturer's training, on CD or DVD format, if available, will be given to each student that attends a training class.

STATE OF CALIFORNIA SPECIFICATION PALLETS, WOODEN

1 SCOPE

This specification covers pallets intended for use with low lift pallet trucks or forklift trucks.

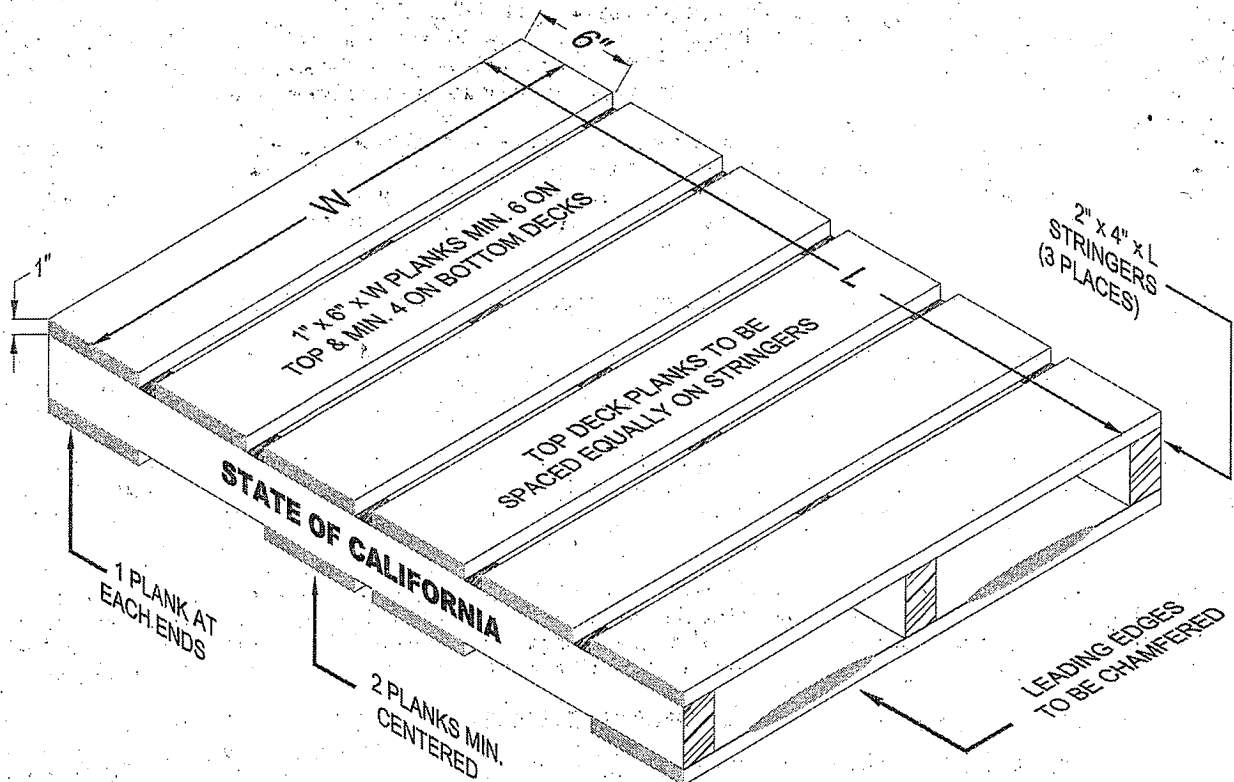
2 SPECIFICATION AND STANDARDS

Specifications and standards referenced in this document in effect on the opening of the Invitation for Bid form a part of this specification where referenced.

3 REQUIREMENTS

3.1 Material

The pallets shall be constructed from nominal size standard or better (West Coast Lumber Inspection Bureau, Standard Grading Rules for West Coast Lumber) grade Douglas Fir, Hemlock, Larch or Hem-Fir. The stringers shall be S4S and the decking S4S or S1S2E (re-



**FIG. 1 - TYPE 2
WOODEN PALLET**

sawed) with no edge knots. Sawed side is to be assembled to the inside of the pallets. Fastening shall be accomplished with $2\frac{1}{4}$ inch (+ $\frac{1}{16}$ inch) 7 penny flat head drive screws (helical threaded nail) or $2\frac{1}{4}$ (+ $\frac{1}{16}$ inch) #10 wire gauge annular ring nails as recommended in Specifications and Grades for Warehouse. Permanent or Returnable Pallets of West Coast Woods as published by the National Wooden Pallet and Container Association (Specifications and Grades, NWPCA).

3.2 Non-Standard Duty-Cycle Pallets

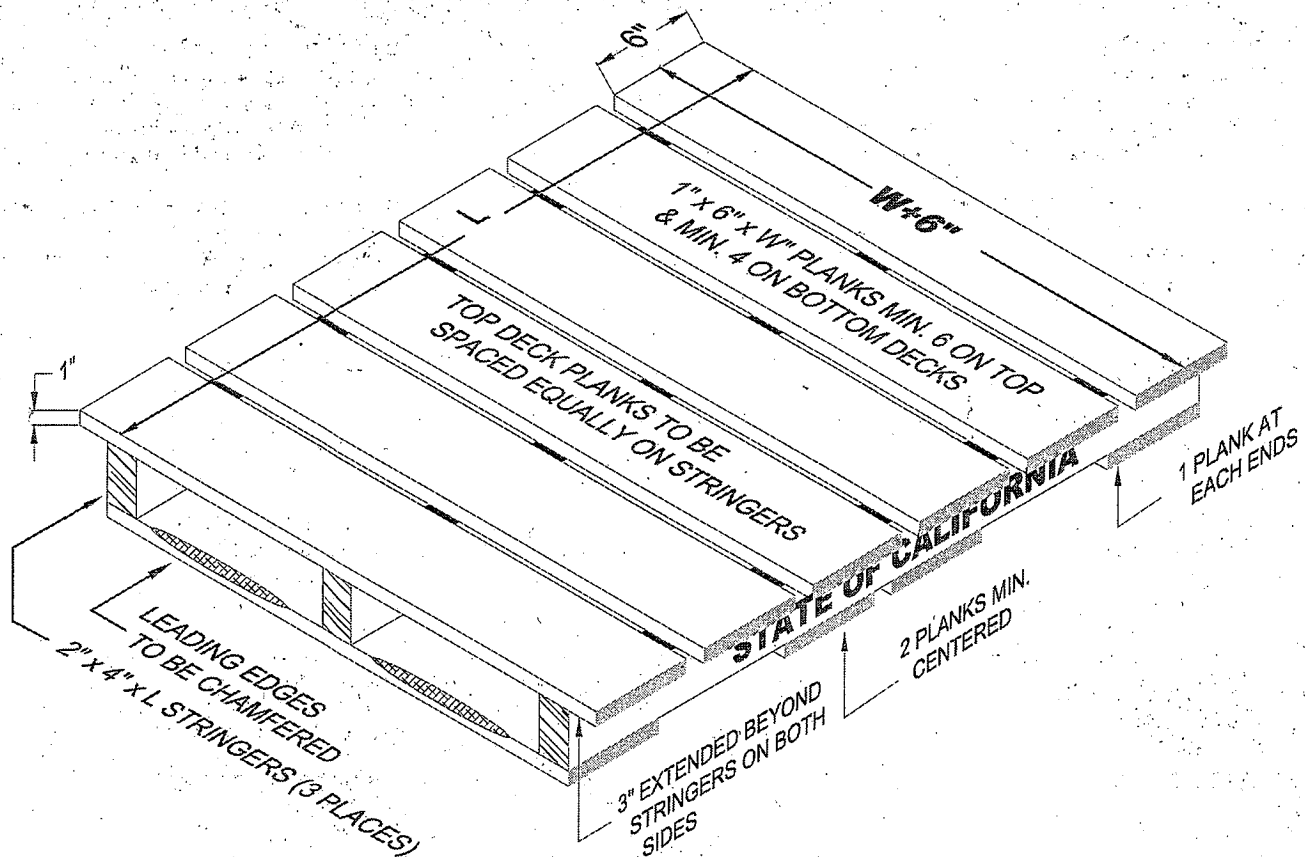
When specifically requested by the user, pallets may be manufactured using pine, oak or ash woods.

3.3 Construction

Pallet type and construction shall comply with Specifications and Grades, NWPCA. The pallets shall be Grade "Quality" (QAL).

The decking shall be secured with 3 nails or screws at each surface of contact with the stringer. Nails shall not be within $\frac{1}{2}$ inch of deck-board edges or another nails.

All leading and outside edges of the bottom deck shall be chamfered. The chamfers shall be at least 12 inches long and shall be cut on an approximate 35 degree angle to the face so as to leave an edge adjacent to the chamfer not less than $\frac{1}{4}$ inch nor more than $\frac{1}{2}$ inch from the outer



**FIG. 2 - TYPE 4
SINGLE WING WOODEN PALLET**

edge of the deck-board. The chamfer shall extend to within 3 inches of the stringers. Pallet configuration shall comply with illustration A.

COMMONLY USED PALLET TYPES & SIZE			
SIZE	TYPE	TOP DECK	BOTTOM DECK
1	2 (Fig. 1)	42"L x 36"W Six 1" x 6" x 36" deck-boards, spaced evenly along the pallet width	42"L x 36"W Min. Four 1" x 6" x 36" boards. One placed each end of the stringers Two at center of the stringers
2	2 (Fig. 1)	42"L x 42"W Six 1" x 6" x 42" deck-boards, spaced evenly along the pallet width	42"L x 42"W Min. Four 1" x 6" x 42" boards. One placed each end of the stringers Two at center of the stringers
3	2 (Fig. 1)	44"L x 44"W Six 1" x 6" x 44" deck-boards, spaced evenly along the pallet width	44"L x 44"W Min. Four 1" x 6" x 44" boards. One placed each end of the stringers Two at center of the stringers (Fig. 1)
4	2 (Fig. 1)	45"L x 36"W Six 1" x 6" x 36" deck-boards, spaced evenly along the pallet width	45"L x 36"W Min. Four 1" x 6" x 36" boards. One placed each end of the stringers Two at center of the stringers
5	2 (Fig. 1)	46"L x 44"W Six 1" x 6" x 44" deck-boards, spaced evenly along the pallet width	46"L x 44"W Min. Four 1" x 6" x 44" boards. One placed each end of the stringers Two at center of the stringers
6	2 (Fig. 1)	48"L x 48"W Six 1" x 6" x 48" deck-boards, spaced evenly along the pallet width	48"L x 48"W Min. Four 1" x 6" x 48" boards. One placed each end of the stringers Two at center of the stringers
Note: SIZE 1, TYPE 4 - has a single wing applied to top deck.			
1	4 (Fig. 2)	42"L x 36"W Six 1" x 6" x 36" deck-boards, spaced evenly along the pallet width with 3" wings extending beyond the stringers outboard faces	42"L x 30"W Min. Four 1" x 6" x 36" boards. One placed each end of the stringers, Two at center of the stringers

4 SAMPLING AND INSPECTION

This commodity will be sampled and inspected for compliance to this specification as deemed necessary. Sampling and inspection by attributes will be in accordance with ANSI/ASQ Z1.4 1993, Sampling Procedures and Tables for Inspection by Attributes. An inspection lot is defined as one delivery to one agency at one time.

4.1 Workmanship

The pallets shall be free from defects as outlined under Grade "Quality" (QAL) in the "Specifications and Grades", NWPCA.

5 MARKING

Each pallet shall be marked (two places), "STATE OF CALIFORNIA". Marking shall be easily readable, in black letters and on outboard faces of stringers.